

Serial No. 10/605,114
Filed: 09/09/03
Page 11 of 16

Examiner: Bruce Allen Lev
Group Art Unit: 3634

REMARKS/ARGUMENTS

By the present amendment, the Specification, Claims and Drawings have been amended for clerical purposes. In addition, claims 1 and 5-9 have been cancelled. New claims 38-43 have been added. Claims 2-4 have been amended to depend from new claim 38. No new matter has been added to the application. The new claims and the amendments to the original claims are believed fully supported by the specification, including the drawings and the claims as filed. For example, new claim 38 reads on both embodiments of the invention, including the hinge structure illustrated in Figs. 8, 9, 12 and 15, and the written description of the subject matter of these drawings.

In the Office Action, the Examiner has objected to claim 22 for being an improper dependent claim for failing to further limit the subject matter of previous claim 21. Applicant believes that claim 22 does in fact further limit the subject matter of claim 21. In particular, claim 22 calls for a socket formed of a wear resistant *metal* whereas claim 21 calls for a socket of wear resistant *material*. The material could be metal or it could be plastic or some other material.

CLAIM REJECTIONS – 35 U.S.C. § 112

Claims 9-18 and 21-27 have been rejected under 35 U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. The rejection is respectfully traversed.

It is believed that claims 9 and 21, as amended overcome the Examiner's objection in that they claim that the lower side of the bottom panel is adapted to be position the trailer bottom wall as suggested by the Examiner. Therefore, it is believed that claims 9 and 21, as amended, overcome the rejection under 35 U.S.C. § 112.

With respect to claim 11, Applicant believes that there is antecedent basis for the phrase "the mounting plate" which appears in line 3 of claim 11. The Examiner's attention is directed to line 2 of claim 11 which refers to "a mounting plate".

CLAIM REJECTIONS – 35 U.S.C. § 103

Claims 1-8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the DeFalco U.S. Patent No. 4,532,973 in view of the Aquilina U.S. Patent No. 6,363,993. This rejection is traversed.

The DeFalco '973 patent relates to a roll-up door construction wherein hollow panels are joined edge-to-edge through a hinge set which includes a hinge knuckle which interconnects door

Serial No. 10/605,114

Filed: 09/09/03

Examiner: Bruce Allen Lev

Group Art Unit: 3634

Page 12 of 16

sections along lateral edges. The hinge components form a partial socket and the other component forms a knuckle which fits within the socket. Hinge members have longitudinally extending flanges which fit within the panels or the panels can fit between the flanges. The flanges of the hinge section are said to be attached to the panels but no method of attaching the hinge section to the panels is disclosed.

The Aquilina '993 patent discloses a roll-up door that has a pivoting bracket for connecting adjacent panels. The pivoting bracket has a generally cylindrical base and an arm rigidly connected to and extending from the base. The arm is mounted to the face of a lower side of one of the panels and the cylindrical base is pivotally received in a socket in the upper side of an adjacent panel. The upper panel further has an arcuate projection which tracks a complementary surface on the upper part of the lower panel.

The combination of the DeFalco '973 patent with the Aquilina '993 patent is traversed. There is no basis for making the alleged combination and the Examiner has provided none in his Office Action. It is not clear how the complimentary arcuate portions of Aquilina could be added to the DeFalco structure.

Because claims 1 and 5-8 have been cancelled, the rejection of these claims over the alleged combination of DeFalco '973 and Aquilina '993 is moot.

Claims 2-4 depend from new claim 39 which is dependent on new claim 38. It is believed that new claim 38 distinguishes over any alleged combination of DeFalco '973 and Aquilina '993. In particular, claim 38 distinguishes over all of the references known to Applicant in calling for a hinge assembly that includes an elongated arcuate projection formed in one of the upper and lower edges of elongated panels at an outer portion thereof and including an elongated flange portion depending therefrom; and elongated socket positioned at the other of the upper and lower edges of the panels and including an inner surface with a curvature complimentary with the curvature of the arcuate projection and an elongated hook portion; wherein the elongated arcuate projection fits within the socket and the elongated flange rests on the elongated hook portion for relative rotation of the elongated panels with respect to each other and the elongated arcuate portion fills a gap at the facing edges of the panel as the panels rotate about the hinge.

This concept is not disclosed in any of the references.

Serial No. 10/605,114

Examiner: Bruce Allen Lev

Filed: 09/09/03

Group Art Unit: 3634

Page 13 of 16

Claims 9-11, 13-28, 31-33, and 37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the DeFalco '973 patent in view of the Rosehitz et al. U.S. Patent No. 3,622,189. This rejection is respectfully traversed.

The Rosehitz et al. '189 reference discloses a roll-up truck door lock and latch which is mounted to a bottom panel of the roll-up door.

The alleged combination of Rosehitz et al. '189 reference with the DeFalco '973 patent is traversed. There is no basis for making the alleged combination.

However, even if the combination were to be made, it still does not reach Applicant's claimed invention. The alleged combination would merely mount the Rosehitz et al. '189 door latch on the bottom panel of the DeFalco '973 door. In particular, claims 9-11 distinguish over any of the alleged combination of DeFalco '973 and Rosehitz et al. '189 in calling for a bottom panel which is extruded and has a predominantly hollow interior between the exterior and interior walls. This concept is not disclosed in either of the references. Further, claims 9-11 and 13-18 distinguish over the alleged combination of DeFalco '973 and Rosehitz et al. '189 in calling for a latch recess in the exterior wall and multiple mounting supports disposed within the hollow interior and extending between the latch recess and the interior wall and wherein the latch assembly is received in the latch recess. Contrary to the Examiner's representation, there is no latch recess in the Rosehitz et al. '189 patent. The latch is mounted flush with the exterior wall of the bottom panel. Further, there are no mounting supports disposed between the hollow interior and exterior walls in any alleged combination of Rosehitz et al. '189 and DeFalco '973. Neither of the DeFalco '973 or the Rosehitz et al. '189 references discloses a hollow wall having multiple mounting supports between exterior and interior walls. Further, they do not disclose such mounting supports between a latch recess and the interior wall of a panel.

Claims 10, 11, and 13-18 depend from claim 9 and distinguish over the alleged combination of Rosehitz et al. '189 and DeFalco '973 of the same reasons that claim 9 defines over these references. In addition, claim 11 calls for a latch assembly that comprises a mounting plate with the latch recess having height substantially equal to the height of the mounting plate to thereby fix the vertical position of the latch assembly when it is positioned within the latch recess. No such mounting plate in any recess is disclosed in the alleged combination of DeFalco '973 and Rosehitz et al. '189.

Serial No. 10/605,114

Examiner: Bruce Allen Lev

Filed: 09/09/03

Group Art Unit: 3634

Page 14 of 16

Claims 13-15 depend from claim 9 and further distinguish over the alleged combination of DeFalco '973 and Rosehitz et al. '189 in calling for extruded walls extending between the latch recess and the interior walls and arranged in spaced pairs defining a channel therebetween in which a fastener can be received. These extruded walls are items 592 as shown in FIG. 5. No such parts are shown in any alleged combination of Rosehitz et al. '189 and DeFalco '973.

Claim 16 depends from claim 9 and further defines over the alleged combination of DeFalco '973 and Rosehitz et al. '189 in calling for a backing plate recess on the interior wall of the bottom panel wherein at least a part of the backing plate recess is opposite a portion of the latch recess. No such structure is shown in either of the DeFalco '973 or the Rosehitz et al. '189 references.

Claim 17 depends from claim 16 and further defines over the alleged combination of Rosehitz et al. '189 and DeFalco '973 in calling for mounting supports that extend between the latch recess and the backing plate recess. This concept is not disclosed anywhere in either of these two references.

Claim 18 depends from claim 9 and further defines over the alleged combination of DeFalco '973 and Rosehitz et al. '189 in calling for a reflector recess formed in the exterior wall of the bottom panel and located above the latch recess and of a size to receive therein a conspicuity reflector. This concept is also missing from either of the DeFalco '973 or Rosehitz et al. '189 patents.

Claims 19 and 20 define over the alleged combination of DeFalco '973 and Rosehitz et al. '189 in calling for an extruded bottom panel that has a predominantly hollow interior between the exterior and interior walls and a reflector recess formed in the exterior walls, located near a bottom portion of the panel and of a size to receive therein a conspicuity reflector. No such structure is disclosed in either of the references. The Examiner's use of the alleged combination of Rosehitz et al. '189 and DeFalco '973 against this combination against claims 19 and 20 is not understood.

Claims 21-28, 31-33, and 37 depend from claim 21 and define over the alleged combination of DeFalco '973 and Rosehitz et al. '189 in calling for a socket made of a wear resistant material attached to each of the lateral sides of the panel and receiving an axle of the wheel assembly therein as required by claim 21. Although DeFalco '973 discloses a metal hinge piece which mounts the axle of wheel panels, the DeFalco '973 patent does not disclose a socket which is attached to each of the lateral sides of the panel in receiving an axle of the wheel assembly therein. Claims 31-33 call for the panels to be extruded and having a uniform cross section between lateral sides thereof with open

Serial No. 10/605,114
Filed: 09/09/03

Examiner: Bruce Allen Lev
Group Art Unit: 3634

Page 15 of 16

ends. This concept is not disclosed in the alleged combination of DeFalco '973 and Rosehitz et al. '189.

Claim 37 is dependent from claim 21 and further defines over the alleged combination of DeFalco '973 and Rosehitz et al. '189 in calling for sockets to be made from a tough wear resistant plastic. This concept is not disclosed in either of the references.

Claim 12 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over DeFalco in view of Rosehitz and further in view of Yane U.S. Patent No. 5,421,627. The Yane '627 patent is cited to show the use of alignment indicia with a door latch configuration.

The Yane '627 patent discloses a door latch mechanism for sliding doors such as patio doors. It has nothing whatsoever to do with roll-up doors and the latch mechanism is entirely different from the latch mechanisms disclosed in either of the Rosehitz et al. '189 or the DeFalco '973 patents. Applicant has been able to find no reference in the Yane '627 patent to any alignment indicia as represented by the Examiner.

The alleged combination of Yane '627 with DeFalco '973 and Rosehitz et al. '189 is traversed. These diverse patents cannot be combined in any tenable combination. The examiner has offered no basis for the alleged combination of these diverse references.

However, even if the alleged combination of DeFalco '973, Rosehitz et al. '189 and Yane '627 were to be combined, however untenably, it still would not reach Applicant's claimed invention of claim 12. There is no disclosure in any of the three references of any alignment indicia as required by claim 12. It is therefore submitted that claim 12 is patentable over any alleged combination of DeFalco '973, Rosehitz et al. '189, and Yane '627.

Finally, claims 29, 30, and 34-36 have been rejected 35 U.S.C. § 103(a) as being unpatentable over DeFalco '973 in view of Rosehitz et al. '189 and further in view of Jarvis et al. U.S. Patent No. 5,411,782. This rejection is respectfully traversed.

Jarvis et al. '782 patent discloses interfitting plastic panels for pool covers, for example. The panels are hollow and have outer and inner walls with open ends. End caps are put into the open ends of the panels.

The alleged combination of DeFalco '973 with Rosehitz et al. '189 and Jarvis et al. '782 is traversed. There is no basis for it making the alleged combination. Neither of the DeFalco '973 or the Rosehitz et al. '189 disclose hollow panels with end caps. As a matter of fact, the Rosehitz et al.

Serial No. 10/605,114

Examiner: Bruce Allen Lev

Filed: 09/09/03

Group Art Unit: 3634

Page 16 of 16

'189 patent relates to wooden doors which are not hollow and which would have no end caps. There is no disclosure of the nature of the panels of the DeFalco '973 patent. Thus, there would be no reason to combine the teachings of the Jarvis et al. '782 patent with either of the DeFalco '973 or the Rosehitz et al. '189 patent.

However, even if the combination of DeFalco '973, Rosehitz et al. '189, and Jarvis et al. '782 were to be made, however untenably, it still would not reach Applicant's claimed invention. All of these claims depend from claim 21 and are believed to be patentable over the references for the same reason that claims 21 is patentable over DeFalco '973 in view of Rosehitz et al. '189. Further, claims 30 and 35 distinguish over the alleged combination of DeFalco '973, Rosehitz et al. '189 and Jarvis et al. '782 in calling for mechanical fasteners that extend through the exterior and interior walls of the panels through the mounting tabs of the end caps and through the socket mounting plate. No such structure is disclosed or suggested in any of the DeFalco '973, Rosehitz et al. '189, and Jarvis et al. '782 references. These claims are clearly patentable over the Examiner's alleged combination of references.

In view of the foregoing, it is submitted that all of the claims in the application are in condition for allowance. Applicant has made an earnest effort to place the claims in condition for allowance. Early notification of allowability is respectfully requested. In the event that the Examiner does not believe that the claims are in condition for allowance, the courtesy of a personal interview or a telephone interview is respectfully requested.

Respectfully submitted,

Andrew Hartmann

Dated: 11-22-04By: 

John E. McGarry, Reg. No. 22,360

MCGARRY BAIR PC

171 Monroe Avenue NW, Suite 600

Grand Rapids, Michigan 49503

616-742-3500

G0147660